IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2460 OF 2005

Prabhavati Dhondappa Bagale ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr.P.R. Arjunwadkar, for the Applicant.

Mr.A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

28th April 2005

P.C.:

. The investigating officer is present in Court and has offered explanation for his non-appearance on 13th April 2005. It is stated that intimation about the hearing was received by him on the same day, for which reason he could not make necessary arrangement. Even if this explanation was to be accepted as intimation was sent on 12th April 2005, it is seen that even on

20th April 2005, which was the adjourned date, no steps were taken to send instructions to the Public Prosecutor to resist the present application. On 20th April 2005, therefore, the matter was once again required to be adjourned to 25th April 2005. However, explanation is offered by the investigating officer that from 13th April 2005 onwards, on account of law and order problem, the investigating officer could not leave the place of work. Even so, there is nothing on record to suggest that he was not even able to depute some responsible officer along with the instructions to be given to the Public Prosecutor to resist this application before the scheduled date, namely, April 20, 2005. The fact that the matter has been brought before this Court by the accused in any case came to the knowledge of the investigating officer on 13th April 2005 when he was informed about the said date of hearing. In the present case, even on 25th April 2005, no assistance was offered to the Public Prosecutor. The matter is accordingly placed today. The explanation offered by the investigating officer prima facie is not satisfactory, much less sufficient cause for not

even deputing some responsible officer along with the relevant record and necessary instructions to be given to the public prosecutor. The appropriate authority to examine this aspect and take necessary action as may be advised and action be taken to its logical end. Compliance report be submitted to this Court within 4 weeks in that behalf.

. The matter is heard on merits. Heard Counsel for the parties. Having regard to the seriousness of the offence, not a case for anticipatory bail.

. However, disposal of this application may not be considered as expression of opinion on the merits of the contentions raised in the present application. The present application is disposed of by giving limited protection to the Applicant to approach the Sessions Court, if so advised. That be done on or before 4th May 2005. In the meantime, the Applicant shall extend necessary co-operation for the purpose of investigation as and when called upon. The Applicant to report to Mangalwedha Police Station daily from tomorrow

till he surrenders or applies for regular bail before the appropriate Court between 11 a.m. to 2 p.m.